I hereby certify that this paper and a fee are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above, addressed to MAIL STOP APPEAL BRIEFS-PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the 14th day of April, 2005.

Ray R. Regan, Registration No. 36,899

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	John E. Liebendorfer
Filing Date:	July 20, 2001
Sole Inventor:	John E. Liebendorfer
For:	A System for Removably and Adjustably Mounting a Device on a Surface
Application Number:	09/910,655
Attorney Docket Number:	2164.004
Express Mail Label Number:	ER563728292US
Group Art Unit:	3632
Examiner:	Anita M. King

APPELLANT'S APPEAL BRIEF

To: Mail Stop APPEAL BRIEFS-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

As provided in 37 C.F.R., Subpart B ("*Ex Parte* Appeals"), §§41.30 *et seq.*, Appellant submits this Appeal Brief in triplicate in connection with the above-identified application with the Board of Patent Appeals and Interferences ("Board").

Applicant requests withdrawal of the rejections made by the Examiner, and also requests allowance of the application.

The requisite government fee provided for in 37 C.F.R. §1.17(c) for a small entity in the amount of $250.00 for filing this Appeal Brief is included in the enclosed check in the amount of $500 as the filing fees for Appellant's Appeal Brief and this Notice, and Applicant confirms that Applicant is a small entity. The Commissioner is authorized to charge any fees required to Deposit Account Number 501565 for Law Offices of Ray R. Regan, P.A., and to deposit any over-payments to the same account.

Separate copies of Appellant's Appeal Brief and Notice of Appeal were furnished to the Examiner as a matter of courtesy.

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(1) REAL PARTY IN INTEREST

The real party in interest is UniRac, Inc., a New Mexico corporation, with principal offices at 3201 University, S.E., Suite 110, Albuquerque, New Mexico 87106, assignee of the above-identified application. The assignment was recorded in the U.S. Patent and Trademark Office on July 31, 2001, Reel Number 012016, Frame Number 5.

(2) RELATED APPEALS AND INTEFERENCES

Applicant is unaware of any related appeals or interferences to the application.

(3) STATUS OF CLAIMS

Claims 1, 3-10, 12-32, 34-38, and 41-49 are pending in the application.

Claims 38 and 41-49 are allowed.

Claims 24-30 have been withdrawn from consideration as being directed to a non-elected species.

Claims 1, 3, 4, 6-10, 17-19, 21, 31, 32, 34 and 37 have been finally rejected.

Claims 5, 12-16, 20, 22, 23, 35 and 36 are objected to, but the Examiner indicated those claims would be allowable if rewritten in independent form.

The claims under examination are shown in the Claims Appendix accompanying this paper.

Prosecution History: Applicant filed the original application on July 20, 2001. The Examiner mailed a first, non-final office action pertaining to restrictions on August 2, 2002 (Paper No. 4). Applicant filed a Reply to Paper No. 4 on August 26, 2002 (Paper No. 5). The Examiner mailed a first substantive, non-final office action ("Office Action 02"or "Office Action") on December 5, 2002 (Paper No. 6). In reply to Paper 6, Applicant filed a Reply to Paper 6 in which Applicant amended certain claims and added new clams 31-37. Subsequently, on June 6, 2003, the Examiner mailed a second non-final substantive office action that included arguments based on newly cited patents for rejecting claims. Applicant replied on October 30, 2003. Subsequently, on September 17, 2004, the Examiner filed another non-final office action. Applicant filed a reply to that office action on December 3, 2004. The Examiner filed a final

office action on February 24, 2005 ("Final Office Action"). This paper, Appellant's Appeal Brief, is in reply to the Final Office Action.

(4) STATUS OF AMENDMENTS

In response to the Final Office Action, Applicant filed no additional amendments.

(5) SUMMARY OF THE CLAIMED SUBJECT MATTER

A. Independent claim 1 of claim set 1-9 is directed to a system (10) for removably and adjustably mounting a device (74) on a surface (40). The system includes a rail (12). The rail (12) is formed with at least two tracks (14a,b), and is removably mountable on a footing grid (36, 38). The at least two tracks (14a,b) include a channel (16) extending the length of the rail (12). A plurality of keepers (76) is provided on which to mount the rail (12). One or more clamps (34) also are provided for connecting the system (10) to the surface (40). (See Appendix A attached to this Appeal Brief).

As shown in the specification of the application at page 3, line 8 through page 5, line 3; page 5, line 5 through page 7, line 7; and page 8, line 5 through page 10, line 25, and drawing Figures 1-11, the claimed subject matter relates to an apparatus for mounting a device, including photovoltaic devices such as photovoltaic modules (see application, page 2, lines 2-8; and page 2, lines 10-16) on a surface (40) that may include a roof or pole (see application, page 2, lines 2-8). See also drawing figures 1 and 2.

B. Independent claim 10 of claim set 10-23 is directed to an apparatus for positioning a module (74) on a surface (40), and includes a footing grid (38) that includes at least one keeper (76). A dual track rail (12) [see page 5, lines 21-28, and figures 3-7] is removably mountable on the footing grid (38). The footing grid includes means (70) for variably positioning the dual track rail (12) on the at least one keeper (76). [In the Reply to Office Action filed by Applicant on February 18, 2003, page 8, proposed amended drawing figures explained that reference numeral 70 referred to the global reference to a means for variably positioning,

while reference numeral 60 refers to the base of a clamp, referencing also the application, page 9, line 21, and page 9, lines 25-26. The Examiner accepted the explanation.] See also figures 10 and 11, and application, page 9, lines 25-26. Also included are one or more clamps (34) variably positionable on the dual track rail (12) and footing grid (38) for demountably securing the module (74) to the footing grid (38). (Also see Appendix A attached to this Appeal Brief).

C. Independent claim 24 of claim set 24-30 has been withdrawn from examination. (See Appendix A attached to this Appeal Brief).

D. Independent claim 31 of claim set 31-37 is directed to a system for removably and adjustably mounting a device (74) on a surface (40) that includes a rail (12) formed with at least two tracks (14) that is formed with a slot (18) at substantially a right angle to the slot (18) in any other of the at least two tracks (14). The rail (12) also is formed with a body (20) having a proximal end (22), a distal end (24), and a hollow chamber (26) therebetween. See application, page 8, lines 24-29), and figures 3-4. One or more clamps (34) for connecting the system to the surface (40) are provided. (See Appendix A attached to this Appeal Brief).

E. Independent Claim 38 of claim set 38-49 is allowed, along with dependent claims 37-49.

(6) GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1, 3, 4, 6-10, 17-19, and 21 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,957,568 to Byers ("Byers Patent").

B. Claims 31, 32, 34 and 37 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,349,912 to Schauss, et al. ("Schauss Patent").

C. Claims 5, 12-16, 20, 22, 23, 35 and 36 are objected to, but the Examiner indicated those claims would be allowable if rewritten in independent form.

(7) ARGUMENTS

A. 35 U.S.C. § 102(b) -- U.S. Patent No. 5,957,568 to Byers ("Byers Patent").

1. **Rejection of Claims under 35 U.S.C. §102 (b) – In General** 35 U.S.C. §102 (b), cited by the Examiner as the basis for rejection of Claims 1, 3, 4, 6-10, 17-19, and 21 over the Byers Patent, provides:

> "A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States...."

Applicant submits that the present invention was neither patented nor described in a printed publication in this or a foreign country, nor was it in public use nor on sale in this country, more than one year prior to the date of filing of the present application in the United States.

2. **Rejection of Claims 1, 3-4 and 6-9**

The Byers Patent does not satisfy the "all-elements" rule of MPEP §2131 for anticipation of independent claim 1. That section of the MPEP provides:

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference...The identical invention must be shown in as complete detail as contained in the claim...[and] the elements must be arranged as required in the claim. (Emphasis added)

Contrary to the Examiner's argument that all elements of independent claim 1 are disclosed in the Byers Patent, a footing grid is not, so the rejection of at least independent claim 1 is unsupported, and therefore should be reversed. The Examiner implicitly acknowledges the absence of a footing grid: the Examiner's enumeration in the Final Office Action of various

elements of the Byers Patent omits a reference numeral to any structural element equivalent to a footing grid. See Final Office Action, page 2, line 2 from the bottom of that page.

Also contrary to the Examiner's argument that all elements are disclosed in the Byers Patent, one or more clamps are not, so the rejection of at least independent claim 1 is unsupported, and therefore should be reversed. The Examiner suggests that clamps are included in the Byers Patent. See Final Office Action, page 3, first line ("...one or more clamps (64, 74, 102)...."). In fact, however, reference numeral 64 is directed to a "slide channel," see Byers Patent, column 4, line 29; reference numeral 74 is directed to a "slide guide," see Byers Patent, column 4, line 44; and reference numeral 102 is directed to a "gutter clip" wholly unrelated to the clamps of the Application, see Byers Patent, column 5, line 9-10.

The Examiner objected to claim 5, which depends from claim 1, but indicated that dependent claim 5 would be allowable if rewritten in independent form. Claim 5 recites:

> 5. A system for removably and adjustably mounting a device on a surface as recited in claim 1, wherein the rail is formed with a body having a proximal end, a distal end, and a hollow chamber therebetween.

While proposed amendments traditionally were welcome during the prosecution dialogue between examiner and applicant in the days before the *Festo* line of decisions, the particular proposed amendment, proposing to limit embodiments of a rail to one having a hollow chamber, would eliminate solid rails. The basic premise, therefore, of MPEP §2111 -- that "[a]pplicant always has the opportunity to amend the claims during prosecution" – is a premise that likely will undergo revision in time. More significantly in this case, however, the proposed amendment presumably is based on overcoming a limitation in the Byers Patent. The Byers Patent, however, neither claims nor shows a solid rail. Further, the application's Summary of the Invention makes no mention about whether the rails are solid or hollow. The Preferred Embodiment refers to a hollow chamber at page 8, line 23. But that is but one possible embodiment. Only one specific embodiment must be shown, not several; the rules require only that "a" embodiment be shown. See 37 CFR §1.71 and MPEP § 608.01. Nothing in the application suggests an intent by

applicant to limit the embodiments of the rail to either a hollow chamber or a solid core. At page 9 of the application, lines 25-29, this comment appears: "Hollow chamber 26 contributes to the light weight yet structural rigidity of at least one rail, and therefore to its ease of handling during installation of system for removably and adjustably mounting a device on a surface 10." That is, however, true of a preferred embodiment, and is not a limitation on other embodiments. An amendment as suggested by the examiner, therefore, is not required by the Patent Office rules of practice, and is not required to overcome any limitation shown in the Byers Patent

In addition, the abstract of the Byers Patent describes "improvements in components for mounting decorative light strings to various mounting sites." See Abstract, Byers Patent, face sheet. While the Byers Patent includes a number of words used by Applicant to describe elements of the apparatus in the Byers Patent, including, for example, "track" and "channels," the structure and cooperation of structure of the Byers Patent has no relationship to the examined Application. MPEP §2111.01 requires that "...pending claims must be given their broadest reasonable interpretation consistent with the specification." MPEP §2111.01 also provides, as the examiner correctly pointed out on page 5 of the Final Office Action: "This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification." On page 3 of the application, lines 8-16, applicant has provided such a clear definition:

> As used in this document the term "footing grid" includes a network of keepers often, but not exclusively, L-shaped and formed with at least one hole in each extension of the "L." The keepers are connectable to a surface and are formed and shaped to permit attachment of other hardware components such as rails and frames on which modules may be attached. (Emphasis added)

The term "module" is defined in the specification of the application as a "photovoltaic module." See application, page 2, lines 5-8. Also see page 2, lines 12-16, which provides:

> A long standing and unsolved challenge in the solar energy industry, for example, has been resolving how best to mount panels, modules and arrays of photovoltaic devices (collectively, "module" or "modules") on surfaces not only securely and safely, but also quickly. The obverse problem also is significant to the industry, namely safely removing or reconfiguring a module that has been installed on a surface. (Emphasis added.)

No structure or cooperation of structure in the Byers Patent fairly meets that definition. As stated in MPEP §2111.01, Part II, citing *Toro Co. v. White Consol. Indus., Inc.*, 199 Fed 3d 1295, 1299, 53 USPQ2d 1065, 1067 (Fed. Cir. 1999), the words in patent claims "are given their ordinary meaning in the usage of the field of the invention, unless the text of the patent makes clear that a word was used with special meaning." The field of applicant's invention is not the field of mounting decorative light strings to various mounting sites, but mounting modules on footing grids located on a surface such as a roof. It seems logical that the use of terminology in the field of the invention, as explained in the specification of the application, should give meaning to the claims.

Dependent claims 3 and 4 are directed to a channel formed with a slot extending the length of the rail, and formed at substantially a right angle to the slot in any other tracks. No such arrangement of a slot is shown or claimed in the Byers Patent. Claims 6-7 are directed to the one or more clamps, and include a duct with at least two opposing flanges that are substantially parallel to one another. No such arrangement of flanges on clamps is shown or claimed in the Byers Patent. Claim 8 also is directed to the clamps, and provides that the clamps are formed with a leg having a base, a descending member monolithically extending from the base, and an ascending member monolithically extending from the base in a direction substantially opposite the direction of the descending member. Claim 9 adds a means for connecting the device to the rail. (See Appendix A attached to this Appeal Brief, and amended Figure 11 for the means (66) for connecting). The Byers Patent shows no structure or cooperation of structure fairly meeting those dependent claims, and accordingly the rejections of claims 6-9 should be withdrawn.

Therefore, applicant respectfully requests that the rejections of the examiner be withdrawn, and that the application proceed to allowance.

3. **Rejection of Claims 10, 17-19, and 21**

The Byers Patent does not satisfy the "all-elements" rule of MPEP §2131 for anticipation of independent claim 10 of claim set 10-23. That section of the MPEP provides:

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference...The identical invention must be shown in as complete detail as contained in the claim...[and] the elements must be arranged as required in the claim. (Emphasis added)

Independent claim 10 recites in the preamble an apparatus for positioning a module on a surface. (See Appendix A attached to this Appeal Brief, emphasis added.) The term "module" is defined in the specification of the application as a "photovoltaic module." See application, page 2, lines 5-8. Also see page 2, lines 12-16, which provides:

> A long standing and unsolved challenge in the solar energy industry, for example, has been resolving how best to mount panels, modules and arrays of photovoltaic devices (collectively, "module" or "modules") on surfaces not only securely and safely, but also quickly. The obverse problem also is significant to the industry, namely safely removing or reconfiguring a module that has been installed on a surface. (Emphasis added.)

As indicated above, MPEP §2111.01 requires that "...pending claims must be given their broadest reasonable interpretation consistent with the specification." MPEP §2111.01 also provides what the examiner correctly pointed out on page 5 of the Final Office Action: "This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification."

The term "module" as shown, is defined in the application. Consistent also with MPEP §2111.02, the term "module" results in a structural difference, and is not a mere statement of purpose or use. Applicant respectfully submits that "on a review of the entirety of the [record] to gain an understanding of what the inventor actually invented," it will be clear that the term "module" is a structural limitation for independent claim 10 and, therefore, for dependent claims 11-23. Further, as already indicated, the term "surface" that appears in the preamble likewise is

defined in the specification of the application as a roof or pole (see application, page 2, lines 2-8; see also drawing figures 1 and 2.)

Contrary to the Examiner's argument that all elements of independent claim 10 and dependent claims 17-19, and 21are disclosed in the Byers Patent, a module is not, so the rejection of at least independent claim 10 is unsupported, and therefore should be reversed.

It follows, therefore, that the structural limitation in the preambles of dependent claims 17-19 and 21 are likewise not found in the Byers Patent.

Also, contrary to the Examiner's argument that all elements of claims 10, 17-19, and 21 are disclosed in the Byers Patent, a footing grid is not, so the rejection of at least independent claim 1 is unsupported, and therefore should be reversed. The Examiner implicitly acknowledges the absence of a footing grid: the Examiner's enumeration in the Final Office Action of various elements of the Byers Patent omits a reference numeral to any structural element that might be a footing grid. See Final Office Action, page 2, line 2 from the bottom of that page.

Also contrary to the Examiner's argument that all elements of claims 10, 17-19, and 21 are disclosed in the Byers Patent, one or more clamps are not, so the rejection of at least independent claim 1 is unsupported, and therefore should be reversed. The Examiner suggests that clamps are included in the Byers Patent. See Final Office Action, page 3, first line ("...one or more clamps (64, 74, 102)...."). In fact, however, reference numeral 64 is directed to a "slide channel," see Byers Patent, column 4, line 29; reference numeral 74 is directed to a "slide guide," see Byers Patent, column 4, lines 44; and reference numeral 102 is directed to a "gutter clip" wholly unrelated to the clamps of the Application, see Byers Patent, column 5, lines 9-10.

Accordingly, the rejection of claims 10, 17-19, and 21 should be withdrawn.

In addition, The Examiner objected to dependent claim 12, which depends from claim 10, but indicated that dependent claim 12 would be allowable if rewritten in independent form. Claim 12 is recites:

> 12. An apparatus for positioning a module on a surface as recited in claim 10, wherein the at least one dual track rail includes a body having a proximal end, a distal end, a hollow chamber between the proximal end and distal end, opposing sides, and opposing shoulders.

As indicated above, while proposed amendments traditionally were welcome in the prosecution dialogue between examiner and applicant, the proposed amendment, proposing to limit the rail to one have a hollow chamber, would eliminate solid rails. The proposed amendment presumably is based on overcoming a limitation in the Byers Patent. The Byers Patent, however, neither claims nor shows a solid rail. Further, the application's Summary of the Invention makes no mention about whether the rails are solid or hollow. The Preferred Embodiment refers to a hollow chamber at page 8, line 23. But that is but one embodiment possible. Only a specific embodiment must be shown, not several; the rules require only that one embodiment be shown. See 37 CFR §1.71 and MPEP § 608.01. Nothing in the application suggests an intent by applicant to limit the embodiments of the rail to either a hollow chamber or a solid core. At page 9 of the application, lines 25-29, this comment appears: "Hollow chamber 26 contributes to the light weight yet structural rigidity of at least one rail, and therefore to its ease of handling during installation of system for removably and adjustably mounting a device on a surface 10." That is, however, true of a preferred embodiment, and is not a limitation on other embodiments. An amendment as suggested by the examiner, therefore, is not required by the rules of practice, and is not required to overcome a limitation in the Byers Patent

No structural limitation, or cooperation of structure, appears in the Byers Patent that fairly meets the definitions. As further stated in MPEP §2111.01, Part II, citing *Toro Co. v. White Consol. Indus., Inc.*, 199 Fed 3d 1295, 1299, 53 USPQ2d 1065, 1067 (Fed. Cir. 1999), the words in patent claims "are given their ordinary meaning in the usage of the field of the invention, unless the text of the patent makes clear that a word was used with special meaning." The field of applicant's invention is not the field of mounting decorative light strings to various mounting sites, but mounting modules on footing grids located on a surface such as a roof.

Therefore, applicant respectfully requests that the rejections of the examiner be withdrawn, and that the application proceed to allowance.

4. **Conclusion** In view of the foregoing, Applicant respectfully requests that the Board of Patent Appeals and Interferences overrule the Final Rejection of the claims over the Byers Patent, and hold that Appellants' Claims are allowable.

B. 35 U.S.C. § 102(e) -- U.S. Patent No. 6,349, 912 to Schauss, et al. ("Schauss Patent").

1. **Rejection of Claims under 35 U.S.C. §102 (e) -- General** 35 U.S.C. §102 (e), as revised, and cited by the Examiner as the basis for rejection of independent claims 31 and dependent claims 32 and 37, provides:

> "A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language."

Applicant submits that the Schauss Patent does not meet the conditions of 35 U.S.C. §102 (e), and that the rejections of independent claims 31 and dependent claims 32 and 37 should therefore be withdrawn.

2. **Rejection of Claims 31, 32, 34 and 37**

The Schauss Patent does not satisfy the "all-elements" rule of MPEP §2131 for anticipation of claims 31, 32, 34 and 37. That section of the MPEP provides:

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference...The identical invention must be shown in as complete detail as contained in the claim...[and] the elements must be arranged as required in the claim. (Emphasis added)

"Anticipation" is a restrictive concept, requiring the presence in a single prior art disclosure of each and every element of a claimed invention, and the test for infringement by anticipation should be rephrased as, 'That which would *literally* infringe if later in time anticipates if earlier than the date of invention.' (Emphasis added, italicized emphasis in the original, *Lewmar Marine, Inc. v. Barient, Inc.*, 827 F.2d 744, 3 USPQ2d 1766 (Fed. Cir. 1987)).

Based on the structural distinctions pointed out by Appellant above, every element of Applicant's claims is not found in the Schauss Patent. Further, as advanced by *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001, 18 USPQ2d 1896 (Fed. Cir. 1991), "there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." As discussed above, the cited references do not disclose the identical structure and cooperation of structure as described in the Application examined by the Examiner. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983).

The apparatus of the Schauss Patent is, according to that reference, directed to a "supporting structure, especially for attachment to a robot arm and for securing tools...[in which] "the support structure is formed of not less than two shaped bars...[and] the clamping member...is formed of at least two parts...." See Schauss Patent, Abstract, face sheet, emphasis added.

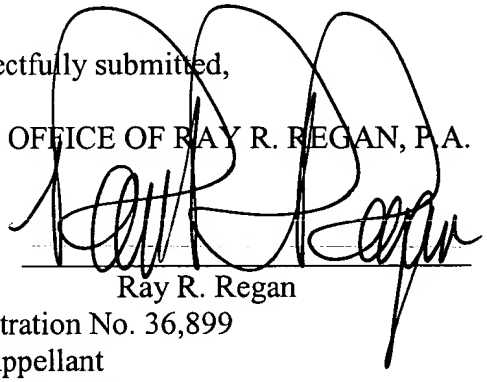
Thus, contrary to the Examiner's suggestion that all elements of the application are disclosed in the Schauss Patent, a "slot formed at substantially a right angle to the slot in any other of the at least two tracks" is not (emphasis added). Further, the single "rail" of the application under examination is not formed of "not less than two shaped bars." Likewise, the clamp of the Application is not formed "of at least two parts."

Accordingly, the rejection of independent claim 31, as well as the rejections of dependent claims 32, 34, and 37, are unsupported, and therefore should be withdrawn.

3. **Conclusion** In view of the foregoing, Applicant respectfully requests that the Board of Patent Appeals and Interferences overrule the Final Rejection of the claims over the cited art, and hold that Appellants' Claims are allowable.

Respectfully submitted,

LAW OFFICE OF RAY R. REGAN, P.A.

By: 

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(8) CLAIMS APPENDIX

Listing of Claims as Last Amended

1. (Previously Presented) A system for removably and adjustably mounting a device on a surface, comprising:

a rail formed with at least two tracks,

wherein the rail is removably mountable on a footing grid,

and further wherein the at least two tracks include a channel extending the length of the rail;

a plurality of keepers on which to mount the rail; and

one or more clamps for connecting the system to the surface.

2. (Cancelled)

3. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 1, wherein the channel in the at least two tracks is formed with a slot extending the length of the rail.

4. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 3, wherein the slot in one of the at least two tracks is formed at substantially a right angle to the slot in any other of the at least two tracks.

5. (Original) A system for removably and adjustably mounting a device on a surface as recited in claim 1, wherein the rail is formed with a body having a proximal end, a distal end, and a hollow chamber therebetween.

6. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 1, wherein the one or more clamps is formed as a duct with at least two opposing flanges.

7. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 6, wherein the opposing flanges of the one or more clamps are substantially parallel to one another.

8. (Original) A system for removably and adjustably mounting a device on a surface as recited in claim 1, wherein the one or more clamps is formed with a leg having a base, a descending member monolithically extending from the base, and an ascending member monolithically extending from the base in a direction substantially opposite the direction of the descending member.

9. (Original) A system for removably and adjustably mounting a device on a surface as recited in claim 1, wherein the one or more clamps include means for connecting the device to the rail.

10. (Previously Presented) An apparatus for positioning a module on a surface, comprising:

a footing grid, wherein the footing grid includes at least one keeper;

at least one dual track rail removably mountable on the footing grid,

and further wherein the footing grid comprises means for variably positioning the at least one dual track rail on the at least one keeper; and

one or more clamps variably positionable on the dual track rail and footing grid for demountably securing the module to the footing grid.

11. (Cancelled)

12. (Original) An apparatus for positioning a module on a surface as recited in claim 10, wherein the at least one dual track rail includes a body having a proximal end, a distal end, a

hollow chamber between the proximal end and distal end, opposing sides, and opposing shoulders.

13. (Original) An apparatus for positioning a module on a surface as recited in claim 12, wherein the body further comprises a first channel formed in one of the opposing sides for slidably engaging the rail to the footing grid.

14. (Original) An apparatus for positioning a module on a surface as recited in claim 13, wherein the first channel is formed with a slot extending along the longitudinal axis of the dual track rail.

15. (Original) An apparatus for positioning a module on a surface as recited in claim 14, wherein the slot includes opposing jaws monolithically protruding from the slot substantially along the longitudinal axis of the first channel.

16. (Original) An apparatus for positioning a module on a surface as recited in claim 15, wherein the body further comprises a second channel formed in one of the opposing shoulders for slidably engaging the rail on the one or more clamps.

17. (Original) An apparatus for positioning a module on a surface as recited in claim 10, wherein the one or more clamps is formed with a plate and monolithic opposing side walls extending substantially in the same direction at substantially right angles from the plate.

18. (Original) An apparatus for positioning a module on a surface as recited in claim 17, wherein the opposing side walls include a lower inner edge and an upper face, and a fin extending from the upper face substantially along the longitudinal axis of the at least one dual track rail.

19. (Previously Presented) An apparatus for positioning a module on a surface as recited in

claim 16, wherein the one or more clamps includes means for variably positioning the one or more clamps in the second channel, and for positioning the at least one keeper in the first channel of the at least one dual track rail.

20. (Original) An apparatus for positioning a module on a surface as recited in claim 10, wherein the one or more clamps is formed with at least one hole through the plate for securing the clamp on the at least one dual track rail.

21. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 10, wherein the one or more clamps is formed with a leg having a base, a descending member monolithically extending from the base, and an ascending member monolithically extending from the base in a direction opposite the descending member.

22. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 21, wherein the ascending member further includes a projecting distally longitudinal fin extending in the direction opposite the ascending member.

23. (Original) An apparatus for positioning a module on a surface as recited in claim 22, wherein the base is formed with at least one hole through the base.

24. (Withdrawn) A method for installing one or more devices on a plurality of keepers located on a surface, comprising:

mounting removably one or more dual track rails on the plurality of keepers;

selecting a module having opposing edges;

positioning the module on the one or more dual track rails; and

securing the opposing edges of the module to the one or more dual track rails with one or more clamps.

25. (Withdrawn) A method for installing one or more devices on a plurality of footings

located on a surface as recited in claim 24, wherein the one or more dual track rails mounting step includes the substep of arranging one or more keepers into a footing grid.

26. (Withdrawn) A method for installing one or more devices on a plurality of footings located on a surface as recited in claim 24, wherein the one or more dual track rails mounting step includes the substeps of:

selecting a body having a proximal end, and distal end, opposing sides, and opposing shoulders;

shaping the body to form in one of the opposing sides a channel extending substantially coincident with the longitudinal axis of the one or more dual track rails, for slidably engaging the rail on the footing grid;

further shaping the body to form a slot in the channel extending substantially coincident with the longitudinal axis of the one or more dual track rails; and

configuring the slot to provide opposing jaws monolithically protruding from the slot into the channel substantially coincident with the longitudinal axis of the first channel.

27. (Withdrawn) A method for installing one or more devices on a plurality of footings located on a surface as recited in claim 26, wherein the one or more dual track rails mounting step also includes the substeps of:

shaping the body to form a second channel in one of the opposing shoulders for slidably engaging the rail on the footing grid;

further shaping the body to form a slot in the second channel extending substantially coincident with the longitudinal axis of the one or more dual track rails; and

configuring the slot to provide opposing jaws monolithically protruding from the slot into the channel substantially coincident with the longitudinal axis of the second channel.

28. (Withdrawn) A method for installing one or more devices on a plurality of footings

located on a surface as recited in claim 24, wherein the module positioning step includes the substeps of:

furnishing one or more clamps formed with a plate and monolithic opposing side walls extending substantially in the same direction at substantially right angles from the plate; and

configuring the opposing side walls to form a lower inner edge and an upper face, and a fin extending from the opposing side walls substantially coincident with the longitudinal axis of the one or more dual track rails.

29. (Withdrawn) A method for installing one or more devices on a plurality of footings located on a surface as recited in claim 24, wherein the module securing step includes the substeps of:

furnishing one or more clamps formed with a leg having a base, a first side, and a second side, a leading surface and a following surface;

shaping the leg to include a descending member monolithically extending from the first side in a direction opposite the following surface;

shaping the leg to include an ascending member monolithically extending from the second side in a direction opposite the leading surface; and

further shaping the leg to provide a on the ascending member a projecting distally longitudinal fin extending from the second side in the direction opposite the ascending member.

30. (Withdrawn) A method for installing one or more devices on a plurality of footings located on a surface as recited in claim 24, wherein the module securing step includes the substep of shaping the one or more clamps for connection to the plurality of keepers located on a surface and to the one or more dual track rails.

31. (Previously Presented) A system for removably and adjustably mounting a device on a surface, comprising:

a rail formed with at least two tracks,

wherein the at least two tracks include a slot formed at substantially a right angle to the slot in any other of the at least two tracks,

and further wherein the rail is formed with a body having a proximal end, a distal end, and a hollow chamber therebetween_; and

one or more clamps for connecting the system to the surface.

32. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 31, wherein the at least two tracks include a channel extending the length of the rail.

33. (Cancelled)

34. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 31, wherein the one or more clamps is formed as a duct with at least two opposing flanges.

35. (Currently Amended) A system for removably and adjustably mounting a device on a surface as recited in claim 34, wherein the opposing flanges of the one or more clamps are substantially parallel to one another.

36. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 31, wherein the one or more clamps is formed with a leg having a base, a descending member monolithically extending from the base, and an ascending member monolithically extending from the base in a direction substantially opposite the direction of the descending member.

37. (Previously Presented) A system for removably and adjustably mounting a device on a surface as recited in claim 31, wherein the one or more clamps include means for connecting the device to the rail.

38. (Previously Presented) An apparatus for positioning a module on a surface, comprising:

a footing grid, wherein the footing grid includes at least one keeper;

at least one dual track rail removably mountable on the footing grid,

wherein the at least one dual track rail includes a body having a proximal end, a distal end, a hollow chamber between the proximal end and distal end, opposing sides, and opposing shoulders ; and

one or more clamps variably positionable on the dual track rail and footing grid for demountably securing the module to the footing grid,

wherein the one or more clamps includes means for variably positioning the one or more clamps in the hollow chamber, and for positioning the at least one keeper in the hollow chamber of the at least one dual track rail.

39. (Canceled)

40. (Canceled)

41. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 38, wherein the body further comprises a first channel formed in one of the opposing sides for slidably engaging the rail to the footing grid.

42. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 41, wherein the first channel is formed with a slot extending along the longitudinal axis of the dual track rail.

43. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 42, wherein the slot includes opposing jaws monolithically protruding from the slot substantially along the longitudinal axis of the first channel.

44. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 38, wherein the one or more clamps is formed with a plate and monolithic opposing side walls extending substantially in the same direction at substantially right angles from the plate.

45. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 44, wherein the opposing side walls include a lower inner edge and an upper face, and a fin extending from the upper face substantially along the longitudinal axis of the at least one dual track rail.

46. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 44, wherein the variably positioning means includes at least one hole through the plate for securing the clamp on the at least one dual track rail.

47. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 38, wherein the one or more clamps is formed with a leg having a base, a descending member monolithically extending from the base, and an ascending member monolithically extending from the base in a direction opposite the descending member.

48. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 47, wherein the ascending member further includes a projecting distally longitudinal fin extending from in the direction opposite the ascending member.

49. (Previously Presented) An apparatus for positioning a module on a surface as recited in claim 48, wherein the base is formed with at least one hole through the base.

(9) EVIDENCE APPENDIX

None.

(10) RELATED PROCEEDINGS APPENDIX

None.